

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 JOSHUA A. HELLUMS,

8 Plaintiff,

9 v.

10 EDWARD CAMPBELL,
11 CHRISTOPHER MEQUET, SHANE
ANDERSON and BARBERA BARTZ,

12 Defendants.

NO: 1:17-CV-3138-TOR

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT

1915(g)

13 BEFORE THE COURT is Magistrate Judge Dimke's Report and
14 Recommendation to dismiss the complaint for failure to state a claim upon which
15 relief may be granted. ECF No. 9. Plaintiff, a pretrial detainee at the Yakima County
16 Jail, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.
17 Plaintiff has filed no objections.

18 By Order filed November 8, 2017, Plaintiff was advised of the deficiencies of
19 his complaint and directed to amend or voluntarily dismiss within sixty (60) days.
20 ECF No. 8. Specifically, Plaintiff failed to allege facts sufficient to show Defendant

ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING COMPLAINT --1

1 Campbell was aware of constitutional violations or that any alleged violations were
2 caused by a custom or policy he established. *Taylor v. List*, 880 F.2d 1040, 1045 (9th
3 Cir. 1989); *see also Ybarra v. Reno Thunderbird Mobile Home Vill.*, 723 F.2d 675,
4 680 (9th Cir. 1984); *Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011) (a supervisor
5 can only be held liable for his or her own culpable action or inaction). Plaintiff also
6 failed to state facts showing deliberately indifferent to his serious medical or mental
7 health needs. *Farmer v. Brennan*, 511 U.S. 825, 837, 846 (1994).

8 Although cautioned that failure to amend to state a claim upon which relief
9 may be granted would result in the dismissal of the complaint and a “strike” under
10 28 U.S.C. § 1915(g), Plaintiff did not amend and has filed nothing further in this
11 action.

12 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
13 brings three or more civil actions or appeals which are dismissed as frivolous or for
14 failure to state a claim will be precluded from bringing any other civil action or
15 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious
16 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
17 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**
18 **count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may**
19 **adversely affect his ability to file future claims.**
20


Accordingly, IT IS HEREBY ORDERED:

1. The Report and Recommendation, ECF No. 9, is **ADOPTED in its entirety**.
2. The complaint, ECF No. 7, is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).
3. Plaintiff's *in forma pauperis* status is revoked.
4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith.

IT IS SO ORDERED. The Clerk of Court is directed to enter this Order, enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE** the file. The Clerk of Court is further directed to forward a copy of this Order to the Office of the Attorney General of Washington, Corrections Division.

DATED February 13, 2018.




THOMAS O. RICE
Chief United States District Judge